

Although the wording of the two labels varies slightly, the variation is not substantive. The agency therefore has no objection if exempted manufacturers wish to exhaust their present supply of labels with the old wording.

The notice also revises the authority citation for Part 555 to reflect the recodification in Title 49 of the United States Code of the statutory provisions previously in Title 15.

Effective Date

Because the amendment is technical in nature and has no substantive impact, it is hereby found that notice and comment thereon are unnecessary. Further, because the amendment is technical in nature and has no substantive impact, it is hereby found for good cause shown that an effective date earlier than 180 days after issuance of the rule is in the public interest, and the amendment is effective February 6, 1995. As the amendment makes no substantive change, it does not affect any of the impacts previously considered in the promulgation of part 555.

Rulemaking Analyses

Executive Order 12866 and DOT Regulatory Policies and Procedures. This rulemaking action has not been considered under Executive Order 12866. However, it has been determined to be not significant under the Department of Transportation's regulatory policies and procedures. The agency has determined that the economic effects of the amendment are so minimal that a full regulatory evaluation is not required. Manufacturers subject to the final rule are not affected by the technical correction.

Regulatory Flexibility Act. The agency has also considered the effects of this rulemaking action in relation to the Regulatory Flexibility Act. I certify that this rulemaking action will not have a significant economic effect upon a substantial number of small entities. Although manufacturers who receive temporary exemptions are generally small businesses within the meaning of the Regulatory Flexibility Act, the agency estimates that there will be no cost to conform to the final rule. Further, small organizations and governmental jurisdictions will not be significantly affected as the price of new exempted motor vehicles will not be impacted. Accordingly, no Regulatory Flexibility Analysis has been prepared.

Executive Order 12612 (Federalism). This rulemaking action has been analyzed in accordance with the principles and criteria contained in

Executive Order 12612 on "Federalism." It has been determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

National Environmental Policy Act. NHTSA has analyzed this rulemaking action for purposes of the National Environmental Policy Act. The rule will not have a significant effect upon the environment. Manufacturers subject to this regulation must already provide a certification label for their vehicles. The rule will not have an effect upon fuel consumption.

Civil Justice. This rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 30161 of Title 49 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 555

Imports, Motor vehicle safety, Motor vehicles.

PART 555—TEMPORARY EXEMPTIONS FROM MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR part 555 is amended as follows:

1. The authority citation for part 555 is revised to read as follows:

Authority: 49 U.S.C. 30113; delegation of authority at 49 CFR 1.50.

2. Section 555.9 is amended by revising paragraph (c)(1) to read as follows:

§ 555.9 Temporary exemption labels.

* * * * *

(c) * * *

(1) The statement required by § 567.4(g)(5) of this chapter shall end with the phrase "except for Standards Nos. [listing the standards by number and title for which an exemption has been granted] exempted pursuant to NHTSA Exemption No. _____."

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Issued on December 28, 1994.

Ricardo Martinez,
Administrator.

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BILLING CODE 4910-59-P

49 CFR Part 571

[Docket No. 80-9; Notice 10]

RIN 2127-AE86

Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends the trailer conspicuity requirements of Motor Vehicle Safety Standard No. 108 to provide clarifications of the existing rule with respect to tank trailers and to the width of retroreflective conspicuity sheeting.

DATES: The final rule is effective February 6, 1995.

FOR FURTHER INFORMATION CONTACT: Patrick Boyd, Office of Vehicle Safety Standards, NHTSA (202-366-6346).

SUPPLEMENTARY INFORMATION: Motor Vehicle Safety Standard No. 108 *Lamps, Reflective Devices and Associated Equipment* was amended on December 10, 1992, to add S5.7 *Conspicuity Systems*, and associated Figure 30, requirements establishing a visibility enhancement scheme for large trailers (57 FR 58406). In response to petitions for reconsideration, S5.7 was amended on October 6, 1993 (58 FR 52021).

The requirements, which became effective December 1, 1993, have been the subject of a number of questions which the agency has answered through interpretation letters. After due consideration, NHTSA has decided that incorporating these interpretations into the standard by making minor changes in the regulatory text and Figure 30 would better serve the needs of trailer manufacturers and users. These changes are not intended to create additional burdens on any person, and should not be interpreted as requiring a change in practice by any manufacturer who has been certifying conformance to S5.7 and Figure 30 of Standard No. 108 on the basis of Standard No. 108 as it existed before the effective date of these amendments.

Upper Rear Treatment of Tank Trailers

The notice proposing conspicuity treatment for trailers (December 4, 1991, 56 FR 63474) contained an alternative that dealt specifically with trailers such as tank trailers whose rear configuration was other than rectangular. On such trailers, under proposed S5.7.1.4.1(d), the conspicuity treatment would "be applied to follow the contours of the rear in the uppermost and outermost areas of the rear of the trailer body on

the upper and left sides." This treatment was illustrated in proposed Figure 31C.

When the final rule was published, a more general requirement applicable to all trailers without reference to rear configuration was adopted with the thought that a less detailed specification would afford greater flexibility to trailer manufacturers. Under S5.7.1.4.1(b), the treatment is "applied horizontally and vertically to the right and upper left contours of the body, as viewed from the rear * * *." Figure 31C was not adopted and Figure 30, which was adopted, depicts van and platform trailers only. Further, NHTSA provided no explanation of why the tank trailer proposals were not adopted. It has since explained to the industry in interpretation letters that the tank trailer proposal, as illustrated in Figure 31C, is an acceptable scheme for compliance with S5.7.1.4.1(b). To reflect these interpretations, NHTSA is amending S5.7.1.4.1(b) to specify that "if the rear of the trailer is other than rectangular, the strips may be applied to follow the contours of the rear in the uppermost and outermost areas of the rear of the trailer body on the left and right sides."

Trailer Illustrations

Figure 30 shows a side stripe with two breaks to illustrate that the side stripe is not required to be continuous. This Figure has been interpreted literally by some small manufacturers as requiring three long pieces of material. NHTSA is replacing Figure 30 with four drawings (Figures 30-1 through 30-4) which are more realistic. They include two examples of tank trailers which illustrate interpretations that side material may be mounted at the tank centerline when practicable locations closer to the ground are unavailable, another source of questions from tank trailer manufacturers. The new Figure also shows other required lamps and reflectors, which had not been illustrated in the original Figure 30.

Paragraph S5.1.1.29 (as amended October 6, 1993 (58 FR 52021)) states that "A trailer equipped with conspicuity treatment in conformance with S5.7 * * * need not be equipped with the reflex reflectors required by Table I of this standard *if the conspicuity material is placed at the locations of the reflex reflectors required by Table I* (emphasis added). The following discussion addresses the issues that have been raised by trailer manufacturers in their attempts to interpret S5.1.1.29.

Table II of Standard No. 108 requires side reflex reflectors on large trailers to be located from 375 mm to 1525 mm above the road surface and they must be

located where they are visible throughout a geometric range of ± 10 degrees vertically and ± 20 degrees horizontally. There is no geometric visibility specification for conspicuity material which may be located as close to between 375 mm and 1525 mm as practicable. NHTSA is aware of at least two common examples of trailer conspicuity treatments which could not be placed at the same location as reflex reflectors. Container chassis use a side conspicuity treatment on the frame because there is no alternative. The material near the ends of a container chassis frame is shrouded by the forward and rear bolsters (full width cross members), and is not visible throughout the ± 20 degrees horizontal range required of reflex reflectors. Therefore, the reflex reflectors mounted at the tips of the bolsters must be retained. The other example appears in the new Figures. A tank trailer with conspicuity material on the fenders is shown in Figure 30-3, and the reflex reflectors may be omitted, but Figure 30-4 shows a tank trailer with a conspicuity treatment on the tank at a height much greater than 1525 mm. The height of the conspicuity material in Figure 30-4 is dictated by practicability, but the reflex reflectors must be located in the required range of 375 mm to 1525 mm and cannot be omitted.

Width of Retroreflective Tape

Paragraph S5.7.1.3(e) establishes three grades of retroreflective sheeting material (C2, C3, and C4) based on minimum levels of retroreflective brightness. Paragraph S5.7.1.3(d) establishes the width of C2, C3, and C4 sheeting. The intent of Standard No. 108 is to establish a minimum amount of light return per linear unit of conspicuity treatment. Thus, C2 material (with the stated width of 50 mm) could be used in widths of 75 mm (C3) or 100 mm (C4) because it exceeds the minimum performance requirements of C3 and C4 material. For the same reason, C3 material could be used in a width of 100 mm. Some trailer manufacturers would like to use C2 material in 75 mm or 100 mm widths but regard the unqualified width value as precluding them from doing so. NHTSA therefore is amending the width figures to be expressed as minimum values. This will also cure a technical problem affecting C2 material, which is available in 2-inch widths, but not the slightly lesser 50 mm width expressed in Standard No. 108.

Typographical Errors

In Notice 8 published on October 6, 1993, S5.7.1.4.1(c) erroneously stated a minimum width of 388 mm for conspicuity material placed on the horizontal member of the rear underride guard; the correct minimum is 38 mm.

The text of Standard No. 108 that is published annually in the Code of Federal Regulations omits underlining from the captions of paragraphs S5.4, S7.5 and S7.7. These are added.

Effective Date

Because the final rule clarifies existing requirements and imposes no additional burden upon any person, it is hereby found for good cause shown that an effective date earlier than 180 days after issuance of the final rule is in the public interest. Accordingly these amendments are effective 30 days after their publication in the **Federal Register**.

Rulemaking Analyses and Notices

Executive Order 12866 and DOT Regulatory Policies and Procedures. This rulemaking has not been reviewed under Executive Order 12866. It has been determined that the rulemaking is not significant under Department of Transportation regulatory policies and procedures. The purpose of the rule is to clarify existing requirements. Since the rule does not have any significant cost or other impacts, preparation of a full regulatory evaluation is not warranted.

National Environmental Policy Act. NHTSA has analyzed this rule for the purposes of the National Environmental Policy Act. It is not anticipated that the rule will have a significant effect upon the environment simply because of the clarifications made to existing requirements.

Regulatory Flexibility Act. The agency has also considered the impacts of this rule in relation to the Regulatory Flexibility Act. Based on the discussion above, I certify that this rule will not have a significant economic impact upon a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and motor vehicle equipment, those affected by the rule, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, small organizations and governmental jurisdictions will not be significantly affected by these minor amendments.

Executive Order 12612 (Federalism). This rule has also been analyzed in accordance with the principles and criteria contained in Executive Order

12612, and NHTSA has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform. This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Forty-nine U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30161; delegation of authority at 49 CFR 1.50.

2. Sec. 571.108 is amended by revising the heading of S5.4, paragraphs S5.7.1.3(a), S5.7.1.3(d), S5.7.1.4.1(b), and the last sentence of S5.7.1.4.1(c), and the headings of S7.5 and S7.7 to read as follows:

§ 571.108 Motor Vehicle Safety Standard No. 108 Lamps, Reflective Devices, and Associated Equipment

* * * * *

S5.4 Equipment combinations. * * *

* * * * *

S5.7.1.3 Sheeting pattern, dimensions, and relative coefficients of retroreflection.

(a) Retroreflective sheeting shall be applied in a pattern of alternating white and red color segments to the side and rear of each trailer, and in white to the upper rear corners of each trailer, in the locations specified in S5.7.1.4, and Figures 30-1 through 30-4, as appropriate.

* * * * *

(d) Retroreflective sheeting shall have a width of not less than 50 mm (Grade DOT-C2), 75 mm (Grade DOT-C3), or 100 mm (Grade DOT-C4).

* * * * *

S5.7.1.4.1 Rear. * * *

* * * * *

(b) Element 2: Two pairs of white strips of sheeting, each pair consisting of strips 300 mm long of grade DOT-C2, DOT-C3, or DOT-C4, applied horizontally and vertically to the right and left upper contours of the body, as viewed from the rear, as close to the top of the trailer and as far apart as practicable. If the perimeter of the body, as viewed from the rear, is other than rectangular, the strips may be applied along the perimeter, as close as practicable to the uppermost and outermost areas of the rear of the body on the left and right sides.

(c) Element 3: * * * Grade DOT-C2 material not less than 38 mm wide may be used.

* * * * *

S7.5 Replaceable bulb headlamp system. * * *

* * * * *

S7.7 Replaceable light sources. * * *

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§ 571.108 [Amended]

3. Section 571.108 is amended by removing Figure 30 and adding Figures 30-1 through 30-4 as set forth below:

BILLING CODE 4910-59-P

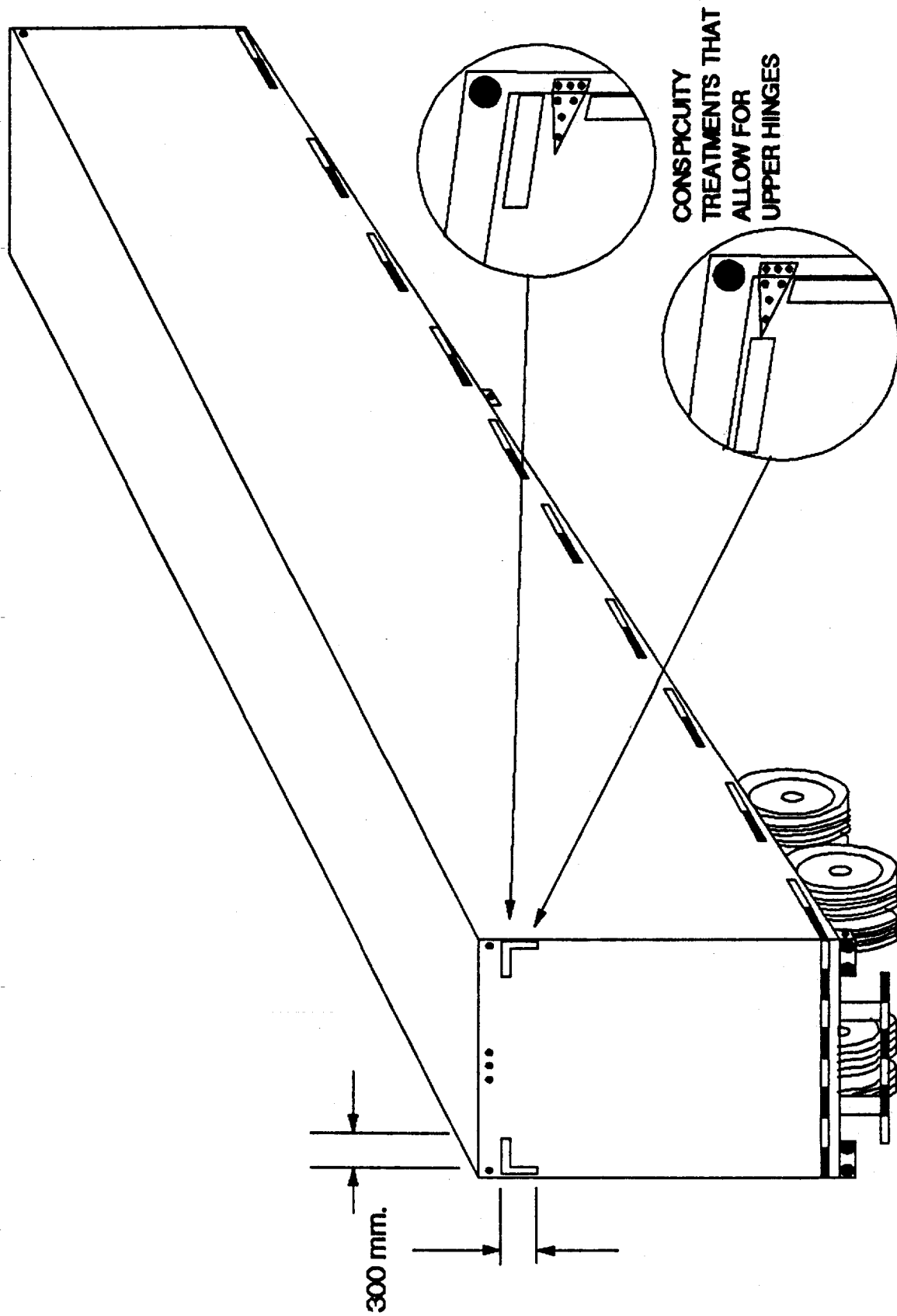


Figure 30-1
Trailer Conspicuity Treatment Example

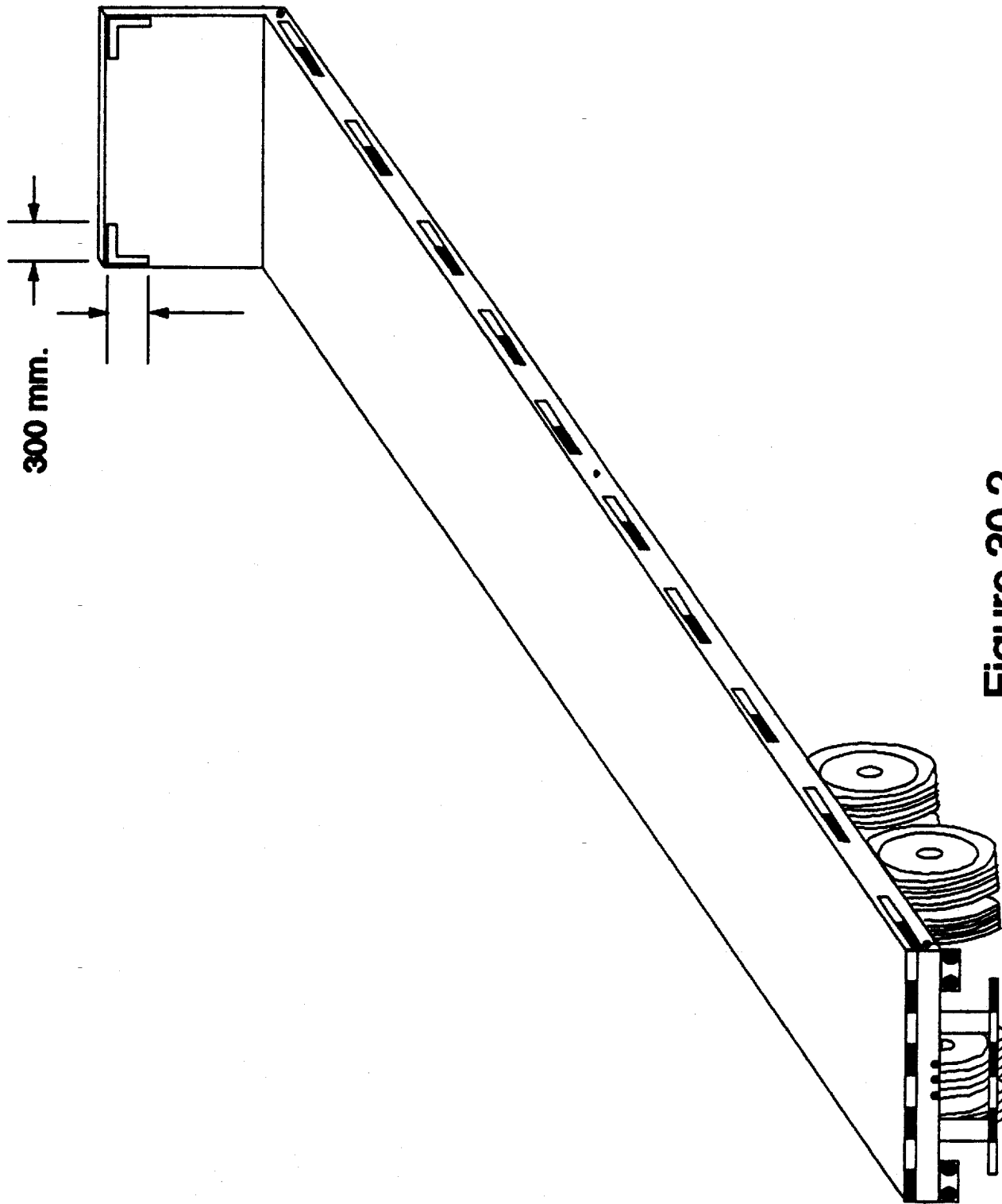


Figure 30-2
Trailer Conspicuity Treatment Example

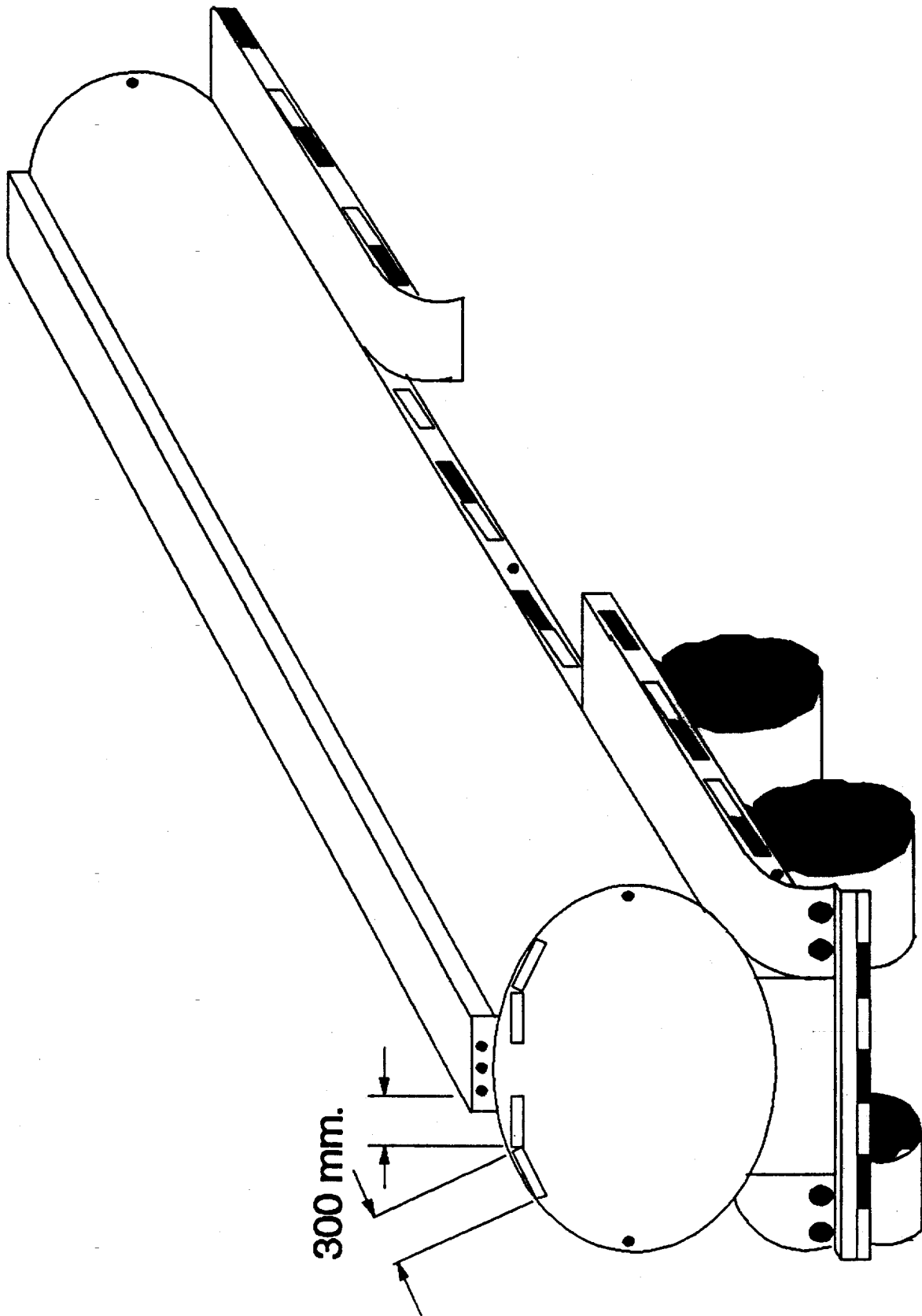


Figure 30-3
Trailer Conspicuity Treatment Example

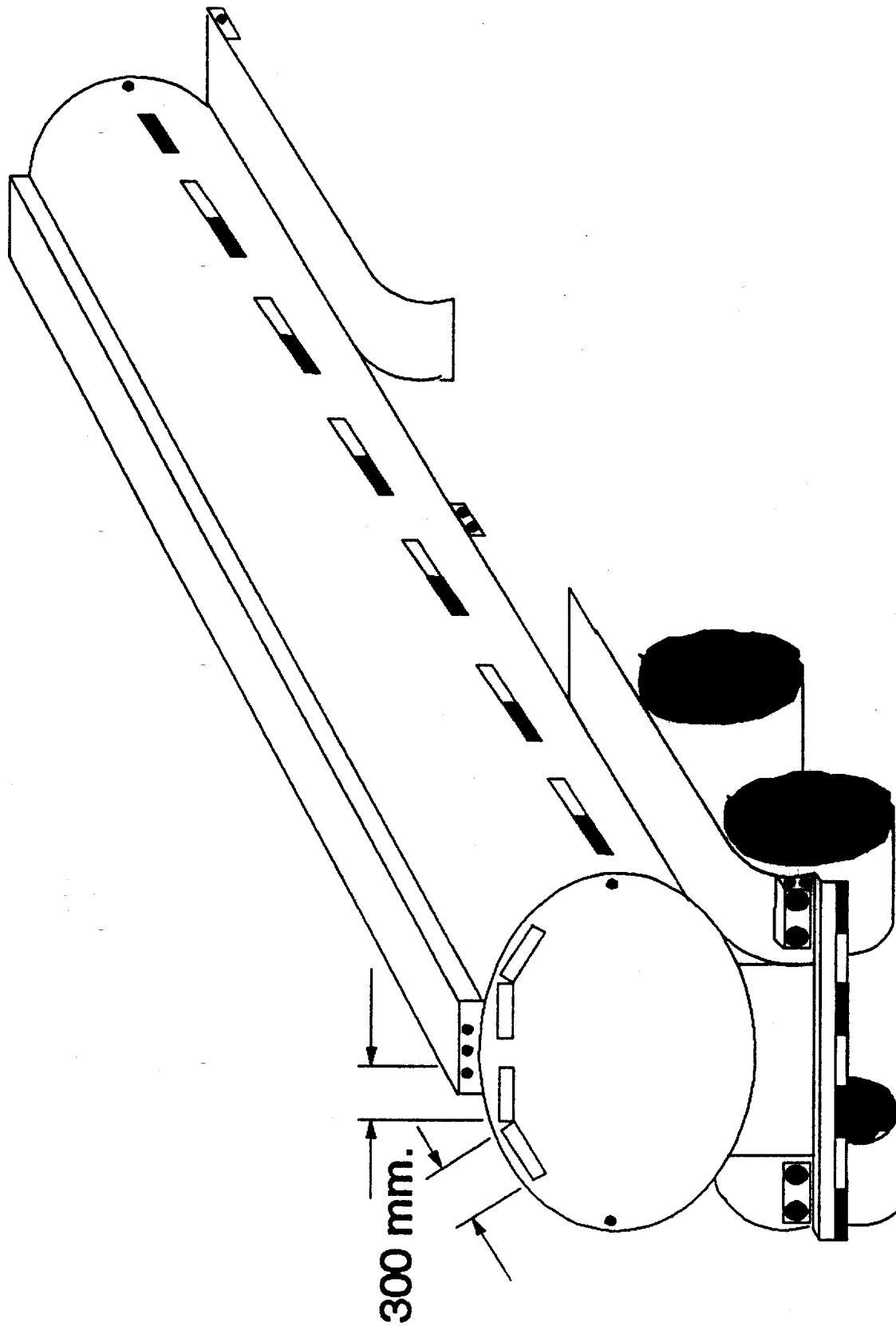


Figure 30-4
Trailer Conspicuity Treatment Example

Issued on: December 28, 1994.

Ricardo Martinez,
Administrator.

[FR Doc. 95-102 Filed 1-4-95; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 625

[I.D. 122794C]

Summer Flounder Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notification of commercial quota transfer.

SUMMARY: NMFS announces that the State of North Carolina is transferring 150,000 lb (68,040 kg) of commercial summer flounder quota to the State of New York. NMFS adjusted the quotas and announces the revised commercial quota for each state involved.

EFFECTIVE DATE: December 30, 1994.

FOR FURTHER INFORMATION CONTACT: Hannah Goodale, 508-281-9101.

SUPPLEMENTARY INFORMATION: Regulations implementing Amendment 2 to the Fishery Management Plan for the Summer Flounder Fishery are found at 50 CFR part 625. The regulations require annual specification of a commercial quota that is apportioned among the coastal states from North Carolina through Maine. The process to set the annual commercial quota and the percent allocated to each state is described in § 625.20.

The final rule implementing Amendment 5 to the FMP was published December 17, 1993 (58 FR 65936), and allows two or more states, under mutual agreement and with the concurrence of the Director, Northeast Region, NMFS, (Regional Director) to transfer or combine summer flounder commercial quota. The Regional Director is required to consider the criteria set forth in § 625.20(f)(1), in the evaluation of requests for quota transfers or combinations.

Further, the Regional Director is required to publish notification in the

Federal Register advising a state, and notifying Federal vessel permit and dealer permit holders, that effective upon a specific date, a portion of a state's commercial quota has been transferred to, or combined with, the commercial quota of another state.

North Carolina has agreed to transfer 150,000 lb (68,040 kg) of commercial quota to New York. The Regional Director has determined that the criteria set forth in § 625.20(f) have been met, and publishes this notification of quota transfers.

Classification

This action is taken under 50 CFR part 625 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 30, 1994.

David S. Crestin,

Acting Director, Office Of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 94-32337 Filed 12-30-94; 11:39 am]

BILLING CODE 3510-22-F